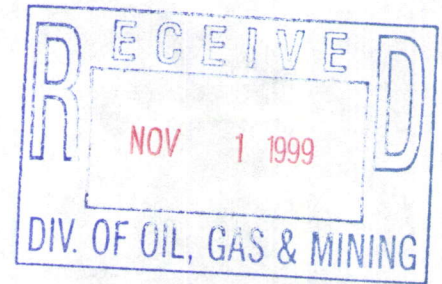




United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155



IN REPLY REFER TO:
3590
UTU-0122694
(UT-921)

OCT 28 1999

CERTIFIED MAIL--Return Receipt Requested

Mr. Robert E. Covington
Consultant
Ziegler Chemical & Mineral
P.O. Box 1845
Vernal, Utah 84078

Re: Mining Plan for the Tom Taylor mine for Gilsonite
Lease U-0122694

NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of noncompliance to Ziegler Chemical and Mineral for failure to comply with the approved mining plan dated July 29, 1997, for operations on Federal gilsonite lease UTU-0122694 known as the Tom Taylor mine.

On May 11, May 25, and September 30, 1999, BLM State Office personnel inspected the Tom Taylor mine site. This was in response to a notification by the Vernal Field Office that operations were observed on the lease which was not part of the operations described in the environmental assessments prepared for the mining proposed on the lease. BLM notes the following violations to the mining plan:

1. **Mining Plan:** The mining plan approval (dated July 29, 1997) approved a surface barrier pillar of 35 feet.

Noncompliance. At the new shaft location the surface barrier pillar is reported to be approximately 10 feet thick. This is as per a certified map from Uinta Engineering dated January 15, 1999. This was verified in an inspection on May 25, 1999. The 40 CFR 3594.2 states "Boundary and other main pillars shall be mined only with the written consent or by order of the authorized officer." This is a serious noncompliance of the mining plan approval. Ziegler has not only failed to comply with the conditions of approval of the mining plan but have also violated the above regulations.

2. Mining Plan: The approved mining plan states, "The basic plan is to mine the block of ore west of Shaft No.3. To do this, the first or upper most level will be cleaned out and timbered. A horizontal pillar 10' in width will be left in place as a barrier between the old workings to the west and the ore mined in the reentry shaft, numbered in this report as No. 3 shaft. This area is marked on the map as containing 470 tons. This plan will probably require cleaning out and timbering parts of the area west of No. 3 shaft on levels 1, 2, 3, and 4" (Emphasis added).

Noncompliance: A new shaft had been sunk 600' to the east of shaft No.3 and mining was continuing downward with stoping in progress according to a map supplied by the company dated January 15, 1999. About 40 feet both east and west of the new shaft there were ventilation breakouts. The new shaft was not authorized. Underground mining to the east was authorized from the Shaft No.3 only. Ziegler has constructed a headframe for lowering materials and supplies which is not in compliance with their plan.

3. Mining Plan: The "Detailed Location of Surface Facilities Map 2.5-A" shows no vacuum line, compressed air line, or mine telephone line to be routed on the surface east of the no. 3 shaft.

Noncompliance: Mining has progressed to the east without the use of Shaft No.3. The vacuum line and compressed air line have been placed on the surface to facilitate ore removal and the mine phone line for safety. These have not been approved. The surface placement of these lines is in noncompliance with the plan.

4. Mining Plan: The "Detailed Location of Surface Facilities Map 2.5-A" shows no use of a two-track road leading to the new shaft on the ridge line immediately south of the no. 3 shaft.

Noncompliance. The use of this two-track road was not included in the mining plan and not covered under the reclamation. This activity has not been approved under the mining plan and is therefore in noncompliance.

Ziegler is also considering a break out on the east side facing the White River which has not been approved. Ziegler Chemical and Mineral must obtain modifications to the mining plan prior to modifying operations. To obtain approval of an exploration or mining plan modification, "the operator/lessee shall submit a written statement of the proposed modification and the justification for such modification. Any proposed exploration or mining plan modifications(s) shall not be implemented unless previously approved by the authorized officer." (43 CFR 3592.1(d)(1)-emphasis added).

Requirements to Correct the Mining Plan Noncompliance:

A plan discussing a solution to the thin surface barrier pillar (item 1 above) must be submitted within 30 days of receipt of this letter and it shall identify a way(s) to permanently mitigate the effects of leaving a thin surface barrier pillar. Fencing and "no action" alternatives are not an option for the surface barrier pillar.

Within 30 days of receipt of this letter, Ziegler Chemical and Mineral Corporation must submit a mining plan modification for BLM review and approval. The mining plan modification shall address items 2-4, the length of time that they will be required for mining operations to continue and the reclamation that is proposed for these items. A surface map shall be included to show

access, escape ways, material storage locations and vehicle parking at the new shaft. A mining map shall be submitted showing the mining sequence to move the air, vacuum and telephone lines underground. The mining plan also shall address low visual impact fencing on the east side of the lease facing the White River.

Requirements pending mining plan modification and approval:

Item 1. A surface pillar of 35 feet in thickness must be maintained in all remaining underground operations unless approval is given by the Authorized Officer (Deputy State Director for Natural Resources, Utah State Office.)

Item 2. No new shafts, headframes or escape ways will be initiated. The existing shafts and escape ways must be secured with locks when mine personnel are not present on the lease.

Item 3. The vacuum, compressed air, and mine phone lines can remain on the surface pending mining plan modification approval.

Item 4. The two-track road on the ridge line can be utilized for access to the new shaft, but vehicles must be parked in a location which is not visible from the White River. This two-track road shall not be improved.

Compliance Failure. Failure to comply with this Notice of Non-Compliance will result in a cessation of operations order being placed on lease U-0122694 as per 43 CFR 3598.4(a).

Appeal Rights

You have 30 calendar days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following at the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

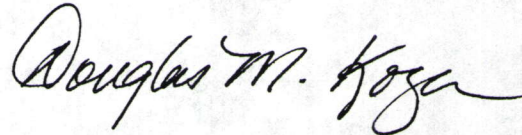
If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

Sincerely,



Douglas M. Koza
Deputy State Director,
Natural Resources

Enclosure

cc: Norman Haslem, Ziegler Mineral and Chemical Corporation,
Star Route, Vernal, Utah 84078
Tony Gallegos, Utah Division of Oil, Gas and Mining, w/o enc.
Gordon Ziegler, President, Ziegler Mineral and Chemical Corporation
100 Jerico Quadrangle Suite 140, Jerico NY 11753